

Remarks

Reconsideration of this Application is respectfully requested. Claims 1-33 and 35-39 are pending in the application, of which claims 1, 13, 25, and 31 are independent. By the foregoing Amendment, claims 1, 13, 25, and 31 are sought to be amended. No new matter is embraced by this amendment and its entry is respectfully requested. Based on the above Amendment and the remarks set forth below, it is respectfully requested that the Examiner reconsider and withdraw all outstanding rejections.

Rejection under 35 U.S.C. § 102

The Examiner, on page 5 of the Final Office Action, states that claims 1-6, 8-11, 13-18, 20-23, 25, 29-33, and 35-38 are rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent Application No. 2003/0135860 to Dureau. Applicants respectfully traverse this rejection. Based on the remarks set forth below, Applicants respectfully request that this rejection be reconsidered and withdrawn.

To anticipate a claim of a pending application, a single reference must disclose each and every element of the claimed invention. *Hybritech Inc. v. Monoclonal Antibodies, Inc.*, 802 F.2d 1367, 1397 (Fed. Cir. 1986). The exclusion of a claimed element from the single source is enough to negate anticipation by that reference. *Atlas Powder Co. v. E.I. du Pont de Nemours & Co.*, 750 F.2d 1569, 1574 (Fed. Cir. 1984).

With respect to independent claim 1, the Examiner states that Dureau teaches each and every element of the claim. Applicants respectfully disagree.

Contrary to the present invention, Dureau does not teach or suggest every element of Applicants' invention. For example, referring to independent claim 1, Dureau does not

teach or suggest at least the following claimed element: “determining whether the media item needs intelligent transcoding to be played on the particular rendering device, wherein if the media item needs intelligent transcoding, then intelligently transcoding the media item, wherein intelligent transcoding includes the capability of transcoding, transcaling, transrating, transformatting, and transcripting.”

The Examiner admits that Dureau only teaches transcoding, transformatting, and transrating on page 7 of the Final Office Action. Therefore, Dureau cannot teach Applicants’ element of: “determining whether the media item needs intelligent transcoding to be played on the particular rendering device, wherein if the media item needs intelligent transcoding, then intelligently transcoding the media item, wherein intelligent transcoding includes the capability of transcoding, transcaling, transrating, transformatting, and transcripting”.

For at least these reasons, Applicants respectfully submit that Dureau does not teach each and every element of Applicants’ claimed invention recited in independent claim 1. Independent claims 13, 25, and 31 also include a similar element to that recited in claim 1. Therefore, independent claims 1, 13, 25, and 31, and the claims that depend therefrom (claims 2-12, 14-24, 26-30, and 32, 33, and 35-39, respectively), are patentable over Dureau. Reconsideration and withdrawal of this rejection is respectfully requested.

Rejection under 35 U.S.C. § 103

The Examiner states, on page 18 of the Final Office Action, that claims 7 and 19 are rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent Application

No. 2003/0135860 to Dureau in view of U.S. Patent Application No. 2002/0069218 to Sull *et al.*

Claims 7 and 19 depend from independent claims 1 and 13, respectively, which are patentable over Dureau for at least the reasons stated above. Furthermore, Sull *et al.* does not teach or suggest all of the features missing from Dureau. Applicants therefore respectfully request that the Examiner reconsider and withdraw the rejection of dependent claims 7 and 19.

The Examiner, on page 19 of the Final Office Action, states that claims 12, 24 and 39 are rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent Application No. 2003/0135860 to Dureau in view of U.S. Patent Application No. 2003/0126086 to Safadi.

Claims 12, 24, and 39 depend from independent claims 1, 13, and 31, respectively, which are patentable over Dureau for at least the reasons stated above. Furthermore, Safadi does not teach or suggest all of the features missing from Dureau. Applicants therefore respectfully request that the Examiner reconsider and withdraw the rejection of dependent claims 12, 24, and 39.

The Examiner, on page 21 of the Final Office Action, states that claim 26 is rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent Application No. 2003/0135860 to Dureau in view of U.S. Patent No. 6,581,102 to Amini *et al.*

Claim 26 depends from independent claim 25, which is patentable over Dureau for at least the reasons stated above. Furthermore, Amini *et al.* does not teach or suggest all of the features missing from Dureau. Applicants therefore respectfully request that the Examiner reconsider and withdraw the rejection of dependent claim 26.

The Examiner, on page 23 of the Final Office Action, states that claims 27 and 28 are rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent Application No. US 2003/0135860 to Dureau and U.S. Patent No. 6,581,102 to Amini *et al.* as applied to claims 25 and 26 above, and further in view of U.S. Patent Application No. 2004/0207724 to Crouch *et al.* Applicants respectfully disagree. Based on the remarks set forth below, Applicants respectfully request that this rejection be withdrawn.

Claims 27 and 28 depend from independent claim 25, which is patentable over Dureau and Amini for the reasons stated above. Furthermore, Crouch *et al.* does not teach or suggest all of the features missing from Dureau and Amini. Applicants therefore respectfully request that the Examiner reconsider and withdraw the rejection of dependent claims 27 and 28.

Conclusion

All of the stated grounds of rejection have been properly traversed, accommodated, or rendered moot. Applicants therefore respectfully request that the Examiner reconsider all currently outstanding rejections and that they be withdrawn. It is believed that a full and complete response has been made to the outstanding Office Action and, as such, the present application is in condition for allowance. If the Examiner believes, for any reason, that personal communication will expedite prosecution of this application, the Examiner is invited to telephone the undersigned at the number provided.

Prompt and favorable consideration of this Response is respectfully requested.

Respectfully submitted,

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Dated: February 26, 2009

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